

REMARKS

A. Request for Reconsideration

Applicant has carefully considered the matters raised by the Examiner in the outstanding Office Action but remains of the position that patentable subject matter is present. Applicant respectfully requests reconsideration of the Examiner's position based on the enclosed Declaration, the copy of Japanese publication JP 2003-195551 with the certified English translation and the following remarks.

B. Claim Status

Claims 1-38 are presented for further prosecution. Claim amendments have not been made at this time.

C. Rejections under § 103(a)

Claims 1-38 had been as being unpatentable over Kobayashi (2003-0190547) in view of Kawaguchi (U.S. 5,953,562).

Kobayashi can be classified as prior art under 102(a) because Kobayashi has a publication date of October 9, 2003 while the present application has a filing date of March 15, 2004. Kobayashi can also be classified as prior art under 102(e) because the January 24, 2003 filing date of Kobayashi is prior to the March 15, 2004 filing date of the present

application. Kobayashi is not prior art under 102(b).

According to MPEP § 706.02(b), prior art rejections based on 102(a) and 102(e) can be overcome by filing a declaration showing a date of invention prior to the effective date of the reference. In accordance therewith, Applicant has enclosed a declaration demonstrating that the present invention was invented prior to the 102(a) and the 102(e) dates of Kobayashi. It is therefore believed that Kobayashi is not prior art.

As stated in paragraph 2 of the enclosed Declaration, Mr. Tomoyori invented the subject matter claimed in the present application prior to January 24, 2003, which is prior to the 102(a) and the 102(e) dates of Kobayashi. To evidence the earlier date of invention, attached to the Declaration is a copy of Japanese publication JP-2003-195551 with a certified English translation. Mr. Tomoyori is the inventor of the invention described in the '551 publication.

The invention disclosed in JP '551 corresponds to the invention disclosed and claimed in the present US application. The invention disclosed in JP '551 was filed in the Japanese Patent Office on December 25, 2001, prior to the 102(a) and 102(e) dates of Kobayashi (see page 1 of the English translation). Thus, the JP '551 publication demonstrates that the invention disclosed and claimed in the present US application was invented at least as early as December 25, 2001.

Support for the claims of the US application can be found in the following portions of JP '551:

US Claim No.	JP '551	US Claim No.	JP '551	US Claim No.	JP '551
1	claim 1	14	pars. 63-64	27	claim 4
2	pars. 78-85	15	claim 4	28	claim 4
3	par. 100	16	pars. 63-64	29	claims 1 and 4
4	par. 20	17	claim 4	30	pars. 63-64
5	pars. 63-64	18	pars. 63-64	31	pars. 63-64
6	pars. 63-64	19	par. 94	32	pars. 63-64
7	pars. 63-64	20	claim 1, pars. 63-64	33	claim 1, pars. 63-64
8	par. 100	21	par. 20	34	pars. 78-85
9	par. 20	22	pars. 63-64	35	par. 100
10	pars. 63-64	23	pars. 63-64	36	par. 20
11	claim 4	24	claim 4	37	claim 6
12	pars. 63-64	25	claim 4	38	par. 149
13	pars. 63-64	26	pars. 63-64		

Applicant respectfully submits that the claims of the present US application find support in JP '551. It is therefore submitted that Applicant has demonstrated that the present invention was invented at least as early as the December 25, 2001 filing date of JP '551. Since this date of invention is prior to the 102(a) and 102(e) dates of Kobayashi, Applicant submits that a prior date of invention has been shown in accordance with MPEP § 706.02(b) and that Kobayashi is not prior art. It is therefore believed that the 103(a) rejection based on Kobayashi and Kawaguchi is overcome.

D. Double Patenting Rejection

Claim 27 had been provisionally rejected for obviousness-type double patenting as being unpatentable over claim 12 of US application 10/802,452.


Applicant intends to file a Terminal Disclaimer to overcome the double patenting rejection upon the indication of allowable subject matter.

E. Conclusion

In view of the foregoing, it is respectfully submitted that the application is in condition for allowance and such action is respectfully requested. Should any extensions of time or fees be necessary in order to maintain this Application in pending condition, appropriate requests are hereby made and authorization is given to debit Account # 02-2275.

Respectfully submitted,

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Encl: Executed Declaration of Mr. Kageyuki Tomoyori
Copy of JP 2003-195551 with certified translation
Return receipt postcard